

**REMARKS**

Claims 17-24, 27-37 and 46-51 are pending in the above-referenced patent application. In this amendment, no claims have been amended or cancelled, and claims 46-51 have been added. It is respectfully submitted that adequate support may be found in the specification for new claims 46-51. For example, support may be found from page 5 line 22 to page 10 line 6 and Figures 1-3.

In the Office Action, dated July 26, 2005, the Examiner allowed claims 17-24, and rejected claims 27-37 under 35 U.S.C 103(a) as being unpatentable over Wei et al (US Patent No. 6,515,967) in view of Schwaller et al (US Patent No 6,061,725). These rejections are respectfully traversed.

Assignee respectfully submits that claims 27-37, as amended, are not rendered obvious by Wei et al in view of Schwaller et al. However, Assignee does not by this argument accept that the combination is proper; rather, while Assignee asserts that the combination is improper, Assignee further asserts that even if the combination were proper, the combination would still fail to show or describe at least one element of the rejected claims. For example, referring now to claim 33, it is respectfully submitted that Wei et al, whether viewed alone or in combination with Schwaller et al, does not show or describe at least transmitting a synchronization packet as recited in claim 33.

The cited portions of Wei et al disclose a "beacon message" that is transmitted by an MRM manager to all the MRM testers, to inform testers that the MRM manager is still active. (Col 8:49-8:51). As stated in Wei et al, "Generally, the beacon message mechanism has two purposes: it allows test senders and test receivers to assure the active state of the MRM manager ... and, it allows test devices to recover lost MRM messages". (Col 9:26 – 9:31). From the cited portions of Wei et al, it is clear that the "beacon messages" do not disclose or suggest a "synchronization packet" of claim 33. Assignee respectfully submits that Schwaller et al. does not make up for the deficiency of Wei et al. in meeting the "synchronization packet" limitations of claim 33.

Additionally, the Examiner concedes that Wei et al is lacking at least one element of claim 33. According to the Examiner, on page 3 of the Office Action, "Wei et al do not disclose incrementing a first counter to record the number of received packets." It is respectfully submitted that Schwaller et al fails to cure the deficiency of Wei noted by the Examiner. As just an example, The cited portions of Schwaller et al. describe frame generators that monitor networking equipment, such as by monitoring

packets received, transmitted, and collisions, but fail to show or describe at least "receiving the synchronization packet, receiving the first test packet, receiving the second test packet, incrementing a first counter to record the number of received packets; determining if the first test packet was received correctly, and determining if the second test packet was received correctly." As recited in claim 33.

Assignee respectfully submits that, for at least the reasons presented above, a prima facie case of obviousness has not been established, and, therefore, claim 33, is in a condition for allowance. It is noted that many other bases for traversing the rejection could be provided, but Assignee believes that this ground is sufficient. Additionally, claims 27-32 and 34-37 are in a condition for allowance for the same and/or similar reasons as presented with reference to claim 33. It is respectfully requested that the Examiner withdraw his rejections of these claims.

Additionally, it is respectfully submitted that new claims 46-51 are allowable for at least the reasons as those presented with respect to claims 17-24 and/or 27-37.

**CONCLUSION**

In view of the foregoing, it is respectfully submitted that all of the claims pending in this patent application are in condition for allowance. If the Examiner has any questions, he is invited to contact the undersigned at (503) 439-6500. Reconsideration of this patent application and early allowance of all the claims is respectfully requested.

Please charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account number 50-3703.

Dated: \_\_\_\_\_

12/27/05

Respectfully submitted,



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